IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.238 OF 2006
IN
CRI.APPEAL NO. OF 2006

The State of Maharashtra ..Applicant

Vs.

Krishnappa Bhimrao Malge
and Ors. ..Respondents

...

Mr.A.R.Patil A.P.P. for the State
None for Respondents

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : NOVEMBER 27, 2007

P.C.

1. Heard the learned APP for the applicant-State.

2. The applicant has filed this application for leave to file appeal against the judgment and order dated 18th October, 2005 in RCC No. 1135 of 2002 passed by the learned Chief Judicial Magistrate, Solapur. By the said judgment and order, the learned Magistrate acquitted the Respondents-accused of the offences under Sections 147, 148, 323, 325, 504, 506 of IPC and 135 of Bombay Police Act.

3. I have perused the judgment and order and the evidence produced by the learned APP for the applicant.

4. It is an admitted fact that all the material witnesses have turned hostile, the complainant and his father in law have not come before the Court to prove their case. None of the prosecution witnesses have supported the case of the prosecution. There is no reliable material evidence against any of the accused persons. In view of this, the learned Magistrate has acquitted the Respondents. Looking to the evidence on record, the view taken by the learned Magistrate is a reasonable and possible view.

5. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, I am referring to only two of them i.e. **AIR 1971 S.C. 66 Khedu Mohton and Ors. Vs. State of Bihar and C. Anthony Vs. K.G.Raghavan Nair (2003) 1 SCC**

1. In the case of **C.Anthony**, the Supreme Court has observed that unless the findings of the trial Court are perverse or contrary to the material on record, the High Court cannot in appeal substitute its findings, merely because another contrary opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Magistrate is a reasonable and possible view, hence, no interference is called for.

6. In this view of the matter, application for leave to appeal is rejected. Consequently, appeal stands dismissed.

[SMT. V.K.TAHILRAMANI,J.]